

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Rhoads

Art Unit: 2625

Patent 7,656,565, Issuing February 2, 2010

Conf. No.: 2476

Application No.: 10/678,584

Filed: October 3, 2003

Via Electronic Filing

EXPLOITING RANDOM MOTION
For: DURING SCANNING TO YIELD
IMPROVED IMAGE

Examiner: Lee

Date: January 20, 2010

APPLICATION FOR PATENT TERM ADJUSTMENT
(Request for Reconsideration of PTO's Patent Term Adjustment Determination)
(37 CFR 1.705(d))

Sir,

Applicant requests reconsideration of the Office's Patent Term Adjustment (PTA) Determination. In particular, applicant believes the 1139 day PTA listed on the PTO's Patent Term Adjustment page on PAIR is incorrect; the correct PTA is believed to be 1792 days.

Statement of Facts

The calculation of PTO Delay is believed to be in error; Applicant submits it is longer than the 1139 days indicated on the Office's PAIR Patent Term Adjustment page (attached).

In particular, Applicant believes both "14 Month to First Action" and "3 Year to Issuance" delays should have been credited in accordance with the decision of the Federal Circuit in *Wyeth v. Kappos*, Appeal 2009-1120, January 7, 2010.

The Office computed its delay as including 1218 days of 14 Month to First Action Delay, and 16 days of other delays. However, no 3 Year to Issuance delay appears to have been credited.

This application was filed on October 3, 2003, and is scheduled to issue on February 2, 2010.

Applicant submits that – properly computed – a 3 Year Delay period began on the third anniversary of the filing date (i.e., October 3, 2006), and extends until the issue date (i.e., February 2, 2010), or 1218 days. (Coincidentally, the 3 Year and 14 Month delays are 1218 days each.)

The 3 Year delay period overlaps the 14 Month to First Action delay by 549 days, and the 3 Year delay wholly overlaps the 16 days of other delays.

Applicant thus believes the correct PTA should be 1792 days, computed as follows:

1218 days	14 Month Delay
1218 days	3 Year Delay
-549 days	Overlap between 14 Month and 3 Year delays
<u>-95 days</u>	Applicant delay
1792 days	

There was no circumstance constituting a failure to engage in reasonable efforts to conclude processing or examination of the application – other than those already considered in the PTO's earlier determination of patent term adjustment.

Date: January 20, 2010

Respectfully submitted,

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